

# SENATE BILL No. 381

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-4-3; IC 33-5-2; IC 33-10.1-2-9; IC 33-10.5-7; IC 33-11.6-4-6.

**Synopsis:** Small claims jurisdiction. Specifies that the small claims jurisdiction of the circuit courts, superior courts, and county courts includes cases where the amount in controversy is not more than \$6,000. Allows a corporation to appear in a small claims proceeding without counsel.

**Effective:** July 1, 2001.

**Kenley**

January 18, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 381

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 33-4-3-7, AS AMENDED BY P.L.180-1999,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2001]: Sec. 7. The small claims docket has jurisdiction over  
4 the following:

5 (1) Civil actions in which the amount sought or value of the  
6 property sought to be recovered is not more than ~~three six~~  
7 thousand dollars ~~(\$3,000)~~: **(\$6,000)**. The plaintiff in a statement  
8 of claim or the defendant in a counterclaim may waive the excess  
9 of any claim that exceeds ~~three six~~ thousand dollars ~~(\$3,000)~~  
10 **(\$6,000)** in order to bring it within the jurisdiction of the small  
11 claims docket.

12 (2) Possessory actions between landlord and tenant in which the  
13 rent due at the time the action is filed does not exceed ~~three six~~  
14 thousand dollars ~~(\$3,000)~~: **(\$6,000)**.

15 (3) Emergency possessory actions between a landlord and tenant  
16 under IC 32-7-9.

17 SECTION 2. IC 33-4-3-8 IS AMENDED TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is deemed to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of plaintiffs' claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

**(e) A corporation in a proceeding under this chapter is not required to appear by counsel.**

SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than ~~three six~~ thousand dollars ~~(\$3,000)~~. **(\$6,000)**. The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six~~ thousand dollars ~~(\$3,000)~~. **(\$6,000)**.

(3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the

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following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

SECTION 4. IC 33-5-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The exceptions provided in this section to formal practice and procedure apply to all cases on the small claims docket.

(b) A defendant is deemed to have complied with the statute and rule requiring the filing of an answer upon entering an appearance personally or by attorney. The appearance constitutes a general denial and preserves all defenses and compulsory counterclaims, which may then be presented at the trial of the cause.

(c) If, at the trial of the cause, the court determines:

(1) that the complaint is so vague or ambiguous that the defendant was unable to determine the nature of plaintiffs' claim; or

(2) that the plaintiff is surprised by a defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated;

the court shall grant a continuance.

(d) The trial shall be conducted informally, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law. The trial is not bound by the statutes or rules governing practice, procedure, pleadings, or evidence except for provisions relating to privileged communications and offers of compromise.

**(e) A corporation in a proceeding under this chapter is not required to appear by counsel.**

SECTION 5. IC 33-10.1-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. A corporation in a proceeding under this chapter is not required to appear by counsel.**

SECTION 6. IC 33-10.5-7-1, AS AMENDED BY P.L.180-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2001]: Sec. 1. Each judge of the county court shall maintain the following dockets:

(1) An offenses and violations docket.

(2) A small claims docket for the following:

(A) All cases where the amount sought or value of the property sought to be recovered is ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** or less; the plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of his claim over ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** to bring it within the jurisdiction of the small claims docket.

(B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)**.

(C) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

(3) A plenary docket for all other civil cases.

SECTION 7. IC 33-10.5-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Practice and Procedure. Except as otherwise provided in this article the practice and procedure in the county court shall be as provided by statute and Indiana rules of procedure as adopted by the supreme court of Indiana. However, in cases of the small claims docket there shall be the following exceptions:

(a) Defendants shall be deemed to have complied with the statute and rule requiring the filing of an answer upon entering their appearance personally or by attorney. The appearance shall be deemed a general denial and shall preserve all defenses and compulsory counterclaims which may then be presented at the trial of the cause.

(b) If, at the trial of the cause, the court determines that the complaint is so vague and ambiguous that the defendant was unable to determine the nature of plaintiffs' claim, or that the plaintiff is surprised by defense or compulsory counterclaim raised by the defendant that the plaintiff could not reasonably have anticipated, the court shall grant a continuance.

(c) The trial shall be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and shall not be bound by the statutory provisions or rules of practice, procedure, pleadings or evidence except provisions relating to privileged communications and offers of compromise.

**(d) A corporation in a proceeding under this chapter is not required to appear by counsel.**

SECTION 8. IC 33-11.6-4-6 IS AMENDED TO READ AS



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- 1       FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. **(a)** A simplified  
2       procedure shall be established by rule to enable any person, including  
3       the state of Indiana, to file the necessary papers and present the  
4       person's case in court either to seek or to defend against a small claim  
5       without consulting or being represented by an attorney.  
6       **(b) A corporation in a proceeding under this chapter is not**  
7       **required to appear by counsel.**

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